IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI BILAL NAZKI

THE ACTING CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION No. 13237 of 2005

Between:

M/s Rayalaseema Concrete Sleepers Pvt. Ltd, 205 & 206, II nd Floor, Amarchand Sharma Complex,
S.P. Road, Secunderabad- 500 003 represented by its General Manager (F & A), Mr. Badri Narayana Murthy.

..... PETITIONER

AND

1.The Appellate Deputy Commissioner (CT), Punjagutta Division, Vth Floor, Office of the Commissioner of Commercial Taxes, M.J. Road, Hyderabad-500 001.
2. The Commercial Tax Officer, Maharajgunj Circle, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ of Mandamus or any other appropriate Writ or order or orders declaring the action of the 1st Respondent in rejecting the appeals by order dt. 31-3-2005 for the assessment year 2001-02 both under APGST & CST Act in A.R.Sl.Nos.C/25/2005 and C/26/2004 without even affording an opportunity of being heard as contemplated under Section 19(3) of the APGST Act read with Rule 33 (4) of APGST Rules as arbitrary, contrary to law and weight of evidence and probabilities of the petitioner's case and consequently direct the 1st Respondent to

take the appeals on record since the petitioner has paid the 12.5% of the disputed tax on 24-5-2005 and dispose of the same in accordance with law and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: Mr. SHAIK JEELANI BASHA

Counsel for the Respondents: GP FOR COMMERCIAL TAX

The Court made the following :

ORAL ORDER:

(per Honourable Sri Bilal Nazki, the Acting Chief Justice)

Heard learned counsel for the parties and with their consent, the writ petition is being disposed of at this stage.

The appeal of the petitioner was rejected by an order of the appellate authority on 31.3.2005 on the ground that it had not paid the admitted tax and also not deposited 12.5 percent of the disputed tax etc. under Section 19 of the A.P.G.S.T. Act. The learned counsel for the petitioner, however, submits that no notice was given by the appellate authority to the petitioner before dismissing the appeal. However, in the mean time, the petitioner has deposited the admitted tax as well as 12.5% of the disputed tax. He, however, concedes that it was deposited after the impugned order was passed. He submits appeal could now be restored and relies on a judgment of this Court in Writ Petition No.3933 of 2005. In these circumstances, we feel that it would be in the interests of Justice if the appeal is restored as the conditions precedent for entertaining the appeal have now been satisfied. Accordingly, the Writ Petition is allowed and the appellate authority is directed to dispose of the Appeal on merits. On the basis of the pleadings by the petitioner, we have stated in our order that 12.5% of the disputed tax has been deposited and also that admitted tax has been paid. It will be, however, open for the appellate authority to satisfy itself that the amounts have been actually deposited.

BILAL NAZKI, AC.J.

22.6.2005.

VR _____

G.CHANDRAIAH, J.

To

1.The Appellate Deputy Commissioner (CT), Punjagutta Division, Vth Floor,
Office of the Commissioner of Commercial Taxes, M.J. Road, Hyderabad-500 001.
2. The Commercial Tax Officer, Maharajgunj Circle, Hyderabad.

3. Two CCs to Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.